

## Message Text

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FM SECSTATE WASHDC

TO AMEMBASSY MANILA PRIORITY

AMEMBASSY OTTAWA PRIORITY

AMEMBASSY LONDON PRIORITY

AMEMBASSY CANBERRA PRIORITY PRIORITY

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E.O. 11652: N/A

TAGS: EIND, US, RP

SUBJECT: PHILIPPINE COPYRIGHT PROTECTION

REF: MANILA 10247 (NOTAL)

1. DEPARTMENT AND US PUBLISHING INDUSTRY STRONGLY CONCERNED  
ABOUT PHILIPPINE PRESIDENTIAL DECREE 285, AS REPORTED BY  
AMEMBASSY MANILA IN REFTTEL, WHICH PERMITS COMPULSORY  
LICENSING (I.E. WITHOUT PERMISSION OF COPYRIGHT HOLDER)  
AND REPRINTING IN PHILIPPINES OF DOMESTIC AND FOREIGN  
EDUCATIONAL, SCIENTIFIC AND CULTURAL BOOKS AND MATERIAL AS  
A TEMPORARY OR EMERGENCY MEASURE WHENEVER PRICE BECOMES  
EXORBITANT. COMMITTEE OF SECRETARY OF EDUCATION AND  
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CULTURE, DIRECTOR GENERAL OF NATIONAL ECONOMIC AND DEVELOP-

MENT AUTHORITY, AND CHAIRMAN, MEDIA ADVISORY COUNCIL WILL MAKE DECISIONS ON WHICH WORKS TO BE SO PUBLISHED.

2. ALSO OF CONCERN IS PHILIPPINE PRESIDENTIAL DECREE 284, SIGNED AT SAME TIME AS DECREE 285, WHICH AMENDS SECTION 05 OF TARIFF AND CUSTOMS CODE TO REQUIRE PRIOR APPROVAL BY DEPARTMENT OF EDUCATION AND CULTURE THAT BOOKS AND PUBLICATIONS ARE FOR SCIENTIFIC OR EDUCATIONAL PURPOSES IN ORDER TO BE IMPORTED DUTY FREE. DECREE 284 CONFLICTS WITH FLORENCE AGREEMENT OF WHICH PHILIPPINES IS A MEMBER. MAJOR PURPOSE OF THIS AGREEMENT IS TO MAKE IT EASIER TO IMPORT EDUCATIONAL, SCIENTIFIC AND CULTURAL MATERIALS. IT REDUCES TARIFF AND TRADE OBSTACLES TO INTERNATIONAL CIRCULATION OF THESE MATERIALS, PERMITTING ORGANIZATIONS AND INDIVIDUALS TO OBTAIN THEM FROM ABROAD WITH LESS DIFFICULTY AND AT LESS COST. IN CASE OF BOOKS, WHATEVER THE LANGUAGE, DUTY FREE ENTRY IS PROVIDED.

3. DEPARTMENT APPRECIATES PROMPT REPORTING BY EMBASSY MANILA ON DECREE 285. FOLLOWING IS PARTIAL TEXT OF DECREE 285 FOR INFO OF POSTS OTHER THAN MANILA:

BEGIN QUOTE SECTION 1. WHENEVER THE PRICE OF ANY EDUCATIONAL, SCIENTIFIC OR CULTURAL BOOK, PAMPHLET, AND OTHER WRITTEN MATERIAL, WHETHER OF DOMESTIC OR FOREIGN ORIGIN, HAS BECOME SO EXORBITANT AS TO BE DETRIMENTAL TO THE NATIONAL INTEREST, AS DETERMINED AND DECLARED BY A COMMITTEE COMPOSED OF THE SECRETARY OF EDUCATION, THE DIRECTOR-GENERAL OF THE NATIONAL ECONOMIC AND DEVELOPMENT AUTHORITY, AND THE CHAIRMAN OF THE MEDIA ADVISORY COUNCIL, SUCH BOOK, PAMPHLET OR WRITTEN MATERIAL MAY BE REPRINTED BY THE GOVERNMENT OR BY ANY PRIVATE PRINTER OR PRINTERS FOR A LIMITED PERIOD AND ONLY FOR THE PURPOSE OF MAKING THE SAME AVAILABLE TO THE PEOPLE AT REASONABLE COST.

SEC. 2. THE REPRINTED BOOKS, PAMPHLETS AND MATERIALS SHALL BEAR PROPER ACKNOWLEDGEMENT OF THE SOURCE, AUTHORSHIP, COPYRIGHT PROPRIETORS, AND PAST PRINTERS, IF KNOWN AS WELL AS THE NAMES AND ADDRESSES OF THE REPRINTER OR REPRINTERS. IF ABBREVIATED OR EDITED IN ANY MANNER, SUCH LIMITED OFFICIAL USE

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FACT SHALL BE STATED. THE FOLLOWING INSCRIPTION SHALL ALSO APPEAR ON THE COVERS THEREOF: "EXPORT OF THIS BOOK OR MATERIAL FROM THE PHILIPPINES IS PUNISHABLE BY LAW". THE EXPORT OF SUCH REPRINTS UNDER ANY CIRCUMSTANCES IS HEREBY PROHIBITED.

SEC. 3. THE REPRINTING OF THE ABOVE BOOKS, PAMPHLETS AND MATERIALS SHALL BE SUBJECT TO THE CONDITION THAT THE

REPRINTER SHALL PAY, IN LOCAL CURRENCY, A ROYALTY OF THREE PERCENTUM ( 3 PERCENT) OF THE GROSS SELLING PRICE, IF SO DEMANDED BY THE AUTHORS, PUBLISHERS, OR COPYRIGHT PROPRIETORS CONCERNED, WHOEVER IS LEGALLY ENTITLED THERETO; PROVIDED, THAT IN THE CASE OF NON-RESIDENT AUTHORS, PUBLISHERS OR COPYRIGHT PROPRIETORS, THE PAYMENT OF THE ROYALTIES SHALL BE MADE ONLY TO THEM PERSONALLY IN THE PHILIPPINES OR THEIR RESPECTIVE REPRESENTATIVES OR BRANCH OFFICES IN THE PHILIPPINES.

SEC. 5. THE COMMITTEE HEREIN NAMED SHALL PROMULGATE RULES AND REGULATIONS FOR THE IMPLEMENTATION OF THIS DECREE.

SEC. 6. THIS DECREE SHALL TAKE EFFECT IMMEDIATELY, THE PROVISIONS OF ANY LAW, DECREE, EXECUTIVE ORDER, TREATY OR EXECUTIVE AGREEMENT TO THE CONTRARY NOTWITHSTANDING.  
END QUOTE

4. ACTION REQUESTED: FOR MANILA - FYI - ALTHOUGH US IS NOT PARTY TO BERNE CONVENTION MANY WORKS OF US ORIGIN ARE ENTITLED TO PROTECTION IN PHILIPPINES UNDER BERNE BY VIRTUE OF FIRST OR SIMULTANEOUS PUBLICATION IN CANADA OR SOME OTHER BERNE MEMBER COUNTRY. END FYI DEPT REQUESTS EMBASSY CONTACT APPROPRIATE PHILIPPINE OFFICIALS TO RECORD OUR CONCERN OVER THIS DECREE, DRAWING AS APPROPRIATE ON THE FOLLOWING: A) USG NOTES THAT GOP IS A MEMBER OF BERNE CONVENTION UNDER TERMS OF WHICH PHILIPPINES IS OBLIGATED TO PROTECT WORK WHICH ARE FIRST PUBLISHED OR SIMULTANEOUSLY PUBLISHED IN ANY OTHER BERNE MEMBER COUNTRY. B) MANY US PUBLISHERS PROTECTED BY BERNE CONVENTION THROUGH SIMULTANEOUS PUBLICATION IN BERNE MEMBER COUNTRIES.  
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C) REPRODUCTION OF BOOKS ENTITLED TO PROTECTION UNDER THE BERNE CONVENTION WITHOUT CONSENT OF COPYRIGHT OWNER WOULD VIOLATE TERMS OF BERNE CONVENTION. D) CONCERN FOR INDUSTRIAL AND INTELLECTUAL PROPERTY RIGHTS IS ALSO A FACTOR IN DEVELOPING OVERALL US-PHILIPPINES BUSINESS RELATIONSHIP.

5. DEPT. URGENTLY REQUIRES REPLY DEPTTEL 147285 OF 26 JULY AND DEPTTEL 165036 OF 20 AUGUST FOR DEVELOPMENT OF STRATEGY BY USG AND US PUBLISHERS.

6. FOR OTTAWA, LONDON AND CANBERRA - DEPARTMENT VIEWS BOTH DECREES AS A POSSIBLE QUOTE TESTING OF THE REACTION BY OTHER GOVERNMENTS UNQUOTE. SINCE CANADA, UNITED KINGDOM AND AUSTRALIA ARE MEMBERS OF BERNE CONVENTION,

EMBASSY COULD DRAW ON PARAGRAPH 4 WHEN CONTACTING APPROPRIATE GOVERNMENT OFFICIALS TO SUGGEST MAKING PROTEST TO PHILIPPINE GOVERNMENT. EMBASSY MAY ALSO DRAW ON POSSIBILITY THAT PUBLISHERS OF THESE COUNTRIES WILL BE CONCERNED IF THEIR ENGLISH-LANGUAGE WORKS ALSO BEING SOLD IN PHILIPPINES SINCE THIS WOULD RESULT IN LOSS OF REVENUE FROM ROYALTIES. APPROPRIATE COPYRIGHT OFFICIALS OF EACH GOVERNMENT WILL UNDOUBTEDLY EXPAND THEIR PROTEST TO PHILIPPINE GOVERNMENT. PLEASE ADVISE ACTION TAKEN. RUSH

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## Message Attributes

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**Current Classification:** UNCLASSIFIED  
**Concepts:** n/a  
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**Disposition Case Number:** n/a  
**Disposition Comment:** 25 YEAR REVIEW  
**Disposition Date:** 28 MAY 2004  
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**To:** MANILA LONDON  
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